



**U S Army Corps  
of Engineers**  
Huntington District

# Public Notice

In reply refer to Public Notice No.  
**200600012**

Issuance Date: **July 19, 2006**

Stream: **UN TRIB HOCKING RIVER**

Closing Date: **August 18, 2006**

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-OR-E Public Notice No. (*reference above*)

502 Eighth Street

Huntington, West Virginia 25701-2070

Phone: (304) 399-5210

**PUBLIC NOTICE:** The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

**REGULATORY PROGRAM:** Since its early history, the U.S. Army Corps of Engineers (Corps) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the Corps Regulatory Program.

**SECTION 10:** The Corps is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition or capacity of navigable waters of the United States (U.S.). The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

**SECTION 404:** The Corps is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

**TO WHOM IT MAY CONCERN:** The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act. This notice serves as the Corps of Engineers' request to the Ohio Environmental Protection Agency to act on Section 401 Water Quality Certification for the following application:

**APPLICANT:** Performance Land Development  
2323 Performance Parkway  
Columbus, Ohio 43207

**LOCATION:** The project is located on a 7.29 acre parcel southwest of the State Route 33 and Pierce Avenue Intersection in Lancaster, Fairfield County, Ohio. The proposal would result in impacts to two jurisdictional wetlands located adjacent to an unnamed tributary of the Hocking River. The unnamed tributary is a direct tributary of the Hocking River, a navigable water of the United States.

**DESCRIPTION OF PROPOSED WORK:** The applicant proposes to place fill material into waters of the United States in conjunction with the construction of a retail center and medical office building and associated amenities at the site.

The proposal would consist of the placement of approximately 15,000 cubic yards of clean fill material into 0.97 acre of two Category 1 wetlands at the site in order to bring the site up to grade and to construct the retail building, and associated parking. Stormwater run-off associated with the proposal would be directed to two detention basins before it is released off-site.

**COMPENSATORY MITIGATION PLAN:** To compensate for the loss of 0.97 acre of Category 1 wetland, the applicant proposed to purchase 1.5 acres of mitigation credit at the Little Scioto Mitigation Bank in Marion County, Ohio.

**SECTION 404(B)(1) ALTERNATIVES ANALYSIS:** A total of 0.97 acre of jurisdictional wetland would be filled as a result of the proposal. The project does not require access to or siting within the wetlands to fulfill its basic purpose and is considered a non-water dependent activity. The Section 404(b)(1) Guidelines state that for non-water dependent activities, practicable alternatives that do not involve wetlands are presumed to be available unless clearly demonstrated otherwise. The applicant is required to provide an alternative analysis that must overcome the presumption prior to receiving authorization for the placement of fill material. The applicant has submitted the required alternative analysis and it is currently being reviewed.

Plans of the proposed work are attached to this notice.

A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain the certification from the Ohio Environmental Protection Agency.

**HISTORIC AND CULTURAL RESOURCES:** The National Register of Historic Places has been consulted and it has been determined there are no properties within the project area listed on the Register. A copy of this public notice will be furnished to the Ohio State Historic Preservation Office for their review. Comments concerning archeological sensitivity of a project area should be based upon collected data.

**ENDANGERED AND THREATENED SPECIES:** The project is located within the known or historic range of the following endangered, threatened, and candidate species: Indiana bat, clubshell mussel, and the eastern massassauga. The Huntington District has consulted the most recently available information and has determined that the project is not likely to affect the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of habitat of such species which has been determined to be critical. This public notice serves as a request to the U.S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7 (c) of the Endangered Species Act of 1972 (as amended).

**PUBLIC INTEREST REVIEW AND COMMENTS:** Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity.

Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b)(1) of the Clean Water Act. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.


The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water

quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

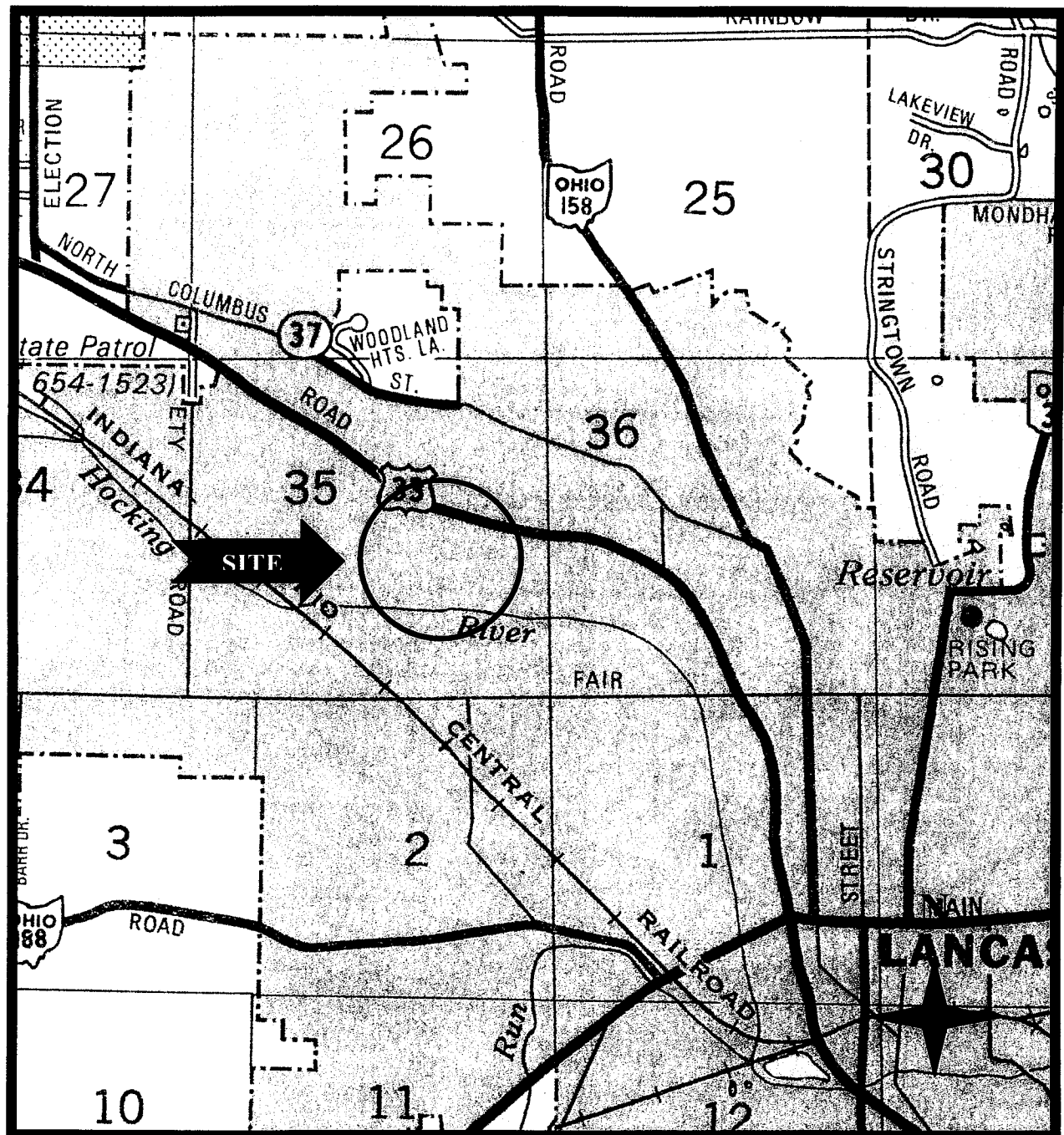
**CLOSE OF COMMENT PERIOD:** All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to:

Kimberly Courts-Brown, Regulatory Project Manager  
North Regulatory Section, CELRH-OR-FN  
U. S. Army Corps of Engineers Huntington District  
502 Eighth Street  
Huntington, West Virginia 25701-2070.

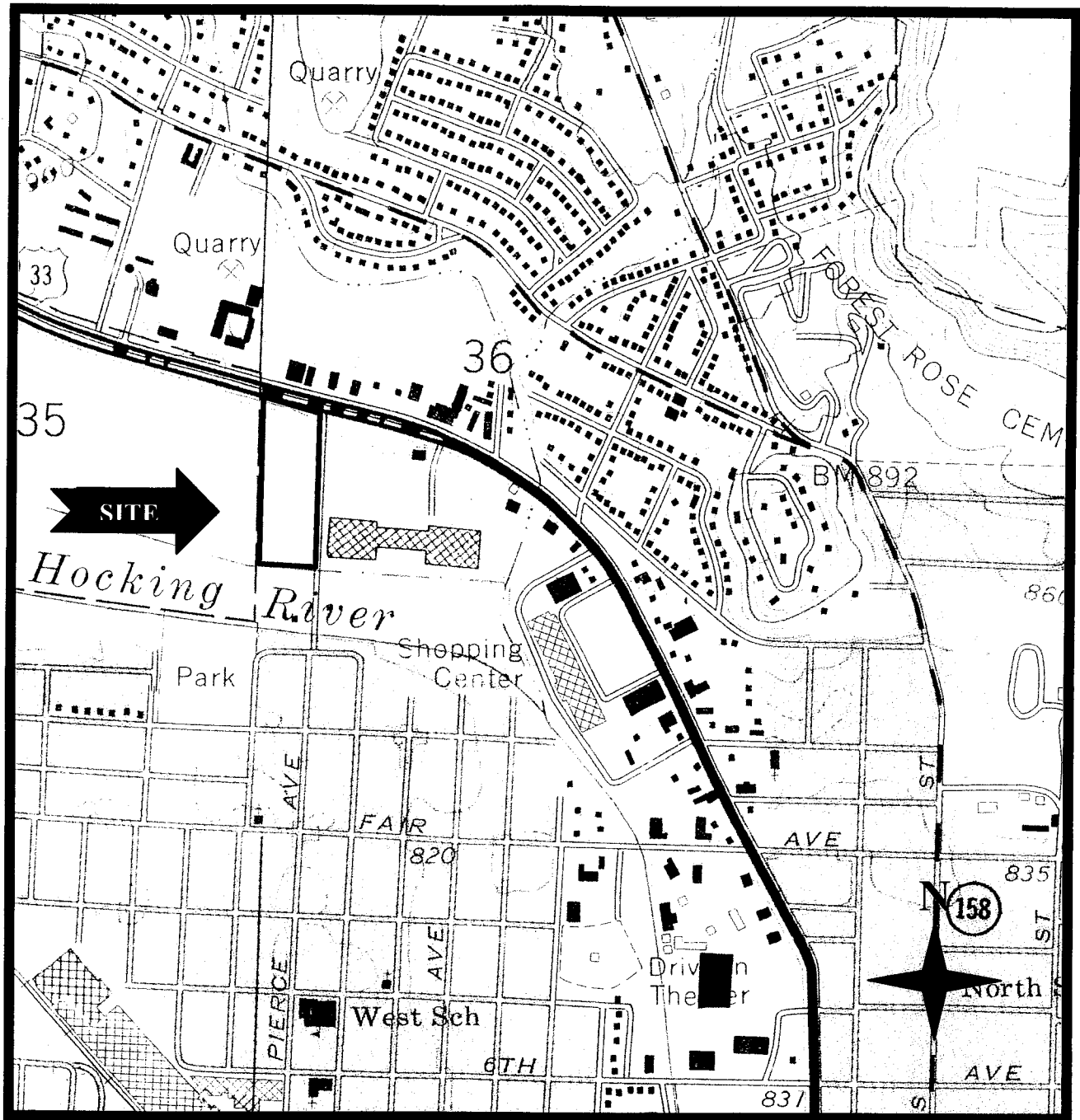
Please note names and addresses of those who submit comments in response to this public notice may be made publicly available. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please contact Kimberly Courts-Brown of the North Regulatory Section at 304-399-5210.

  
for Ginger Mullins, Chief  
Regulatory Branch

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**FIGURE 1**  
 Area Location Map  
 1"=1/2 mile  
 (Fairfield County Engineering Department, 2003)

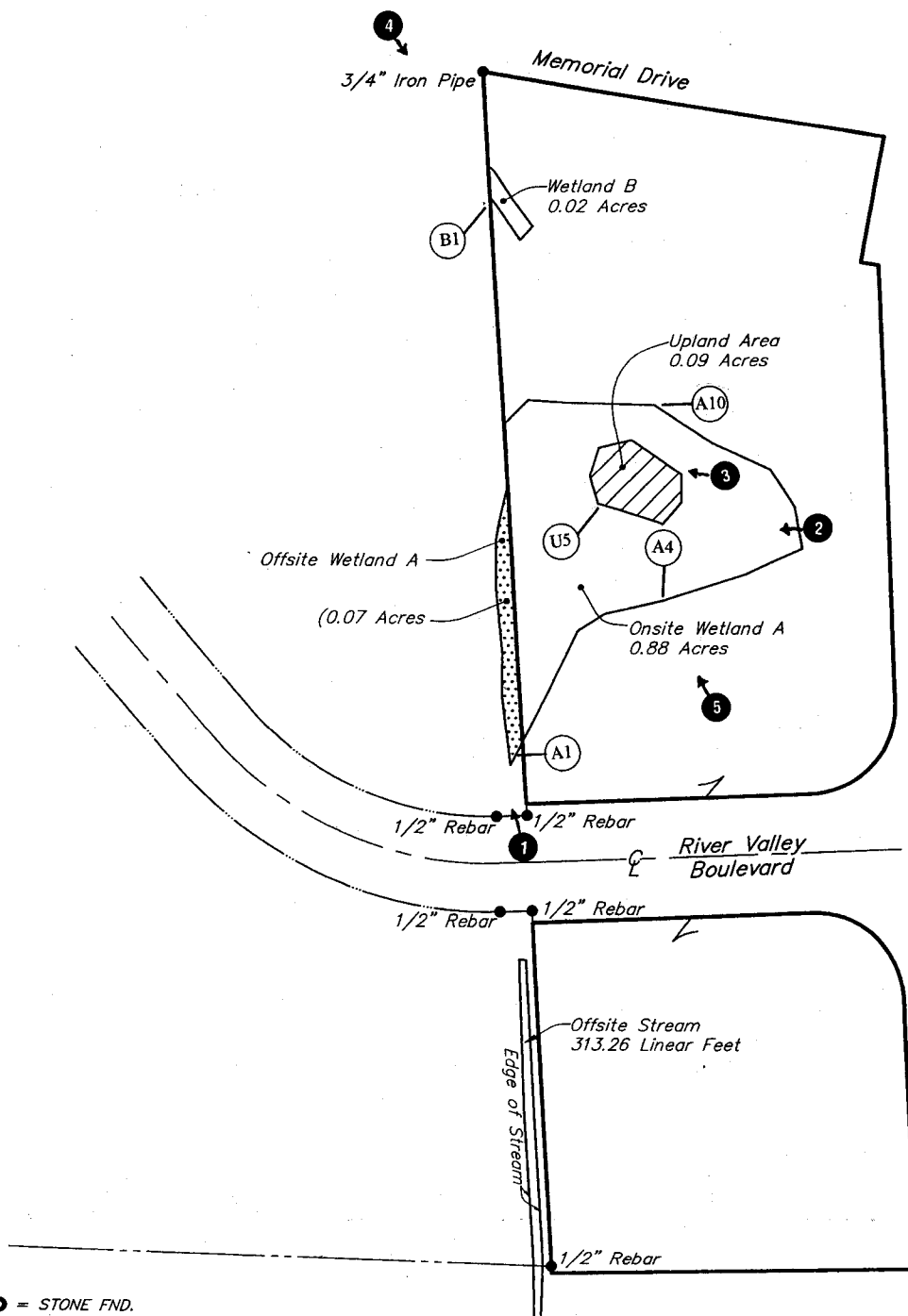


**FIGURE 2**  
USGS Topographical Map  
1"=1000'  
Lancaster, Ohio (Photorevised 1982)

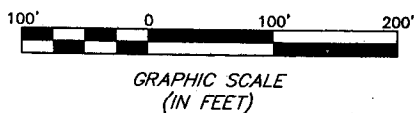
**SECTION 35, TOWNSHIP 15, RANGE 19**  
**UNITED STATES MILITARY LANDS**  
**CITY OF LANCASTER, FAIRFIELD COUNTY, OHIO**

Scale: 1" = 100'

Job No: 2005-2348

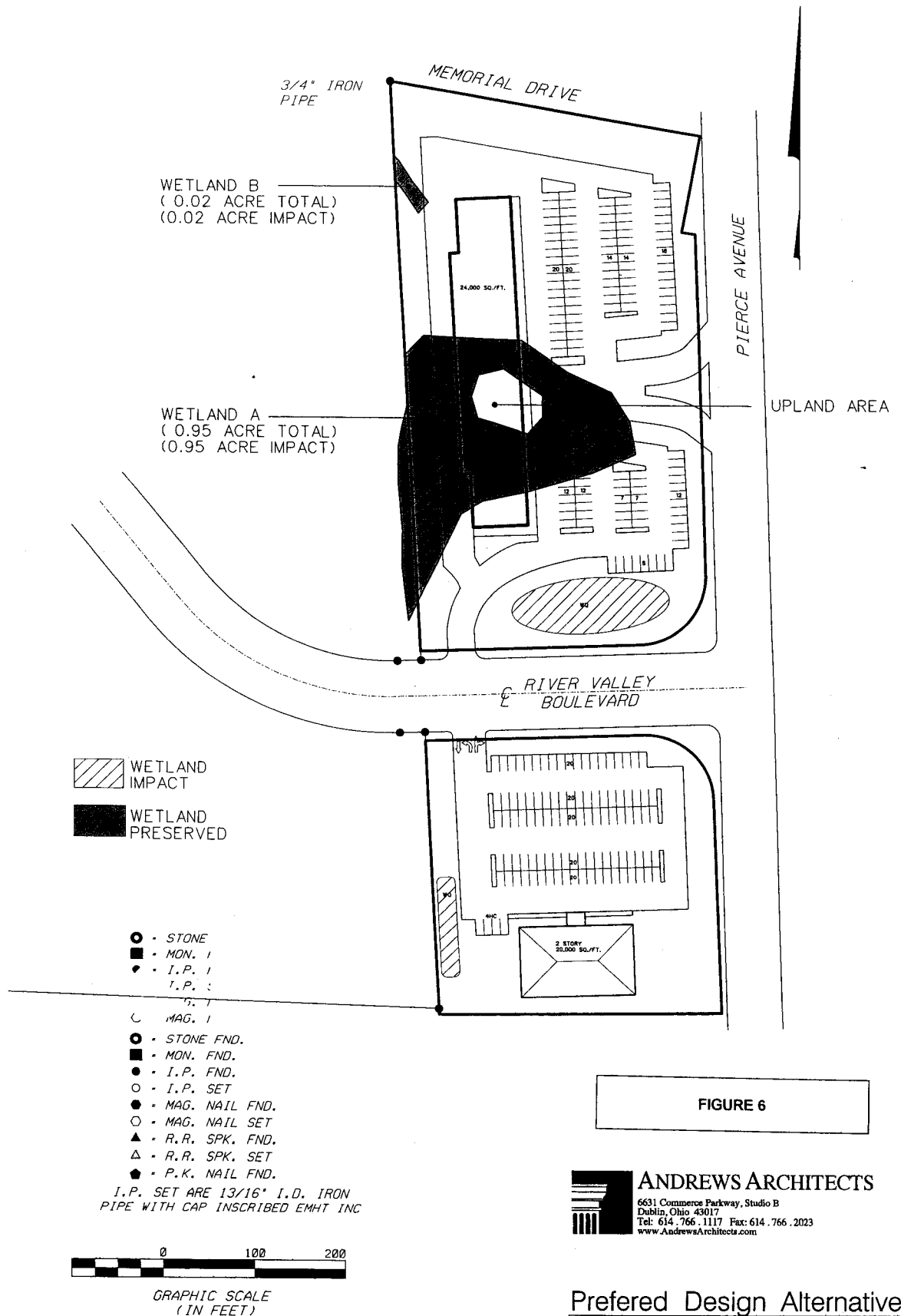


- = STONE FND.
  - = MON. FND.
  - = I.P. FND.
  - = I.P. SET
  - = MAG. NAIL FND.
  - = MAG. NAIL SET
  - ▲ = R.R. SPK. FND.
  - △ = R.R. SPK. SET
  - = P.K. NAIL FND.
- I.P. Set are 13/16" I.D. iron pipe with cap inscribed EMHT INC



**KEY**

- A1 Data point
- ← 3 Photograph location and direction



Preferred Design Alternative

April 18, 2006